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10 JUN -9 AM 10:03

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

5 UNITED STATES DISTRICT COURT
6 CENTRAL DISTRICT OF CALIFORNIA
7 WESTERN DIVISION

8 STEVEN TUTOR,

) Case No.: CV 10 4243 -RC

9 Plaintiff,

) COMPLAINT AND DEMAND FOR
JURY TRIAL

10 v.

) (Unlawful Debt Collection Practices)

11 CHECK RESOLUTION SERVICE, INC.,

12 Defendant.

13
14 VERIFIED COMPLAINT

15 STEVEN TUTOR (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the
16 following against CHECK RESOLUTION SERVICE, INC., (Defendant):

17 INTRODUCTION

- 18 1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15
U.S.C. 1692 *et seq.* (FDCPA).
19
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection
20 Practices Act, *Cal. Civ. Code §1788 et seq.* (RFDCPA).

21
22 JURISDICTION AND VENUE

- 23 3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such
actions may be brought and heard before "any appropriate United States district court
24 without regard to the amount in controversy," and 28 U.S.C. 1337 grants this court
25 supplemental jurisdiction over the state claims contained therein.

4. Defendant's principal place of business is in the state of California, and therefore, personal jurisdiction is established.
 5. Venue is proper pursuant to *28 U.S.C. 1391(b)(1)*.
 6. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

PARTIES

7. Plaintiff is a natural person residing in West Covina, Los Angeles County, California.
 8. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)* and *Cal. Civ. Code § 1788.2(h)*.
 9. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)* and *Cal. Civ. Code § 1788.2(c)*, and sought to collect a consumer debt from Plaintiff.
 10. Defendant is a company with its headquarters in Kenmore, New York.
 11. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

12. Defendant placed approximately three collection calls every other day to Plaintiff seeking and demanding payment for an alleged payday loan debt.
 13. Defendant placed collection calls to Plaintiff from telephone number 877-995-0657.
 14. Defendant threatened to send a ‘process server’ to Plaintiff’s house.
 15. Defendant disclosed the existence of Plaintiff’s alleged debt to Plaintiff’s friend ‘Bee Corona’.
 16. Defendant threatened to take Plaintiff to court.
 17. Defendant threatened to put a judgment on Plaintiff.
 18. Defendant threatened to charge Plaintiff with check fraud.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

19. Defendant violated the FDCPA based on the following:
 20. Defendant violated §1692b(1) of the FDCPA by contacting a third party and failing to state that collector is confirming or correcting location information.
 21. Defendant violated §1692b(2) of the FDCPA by contacting a third party and stating that the consumer owes any debt.
 22. Defendant violated §1692c(a)(1) of the FDCPA by contacting Plaintiff at a time and place known to be inconvenient.
 23. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff.
 24. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
 25. Defendant violated §1692e of the FDCPA by false, deceptive, or misleading representation or means in connection with the debt collection.
 26. Defendant violated §1692e(2) of the FDCPA by misrepresenting the character, amount, or legal status of the alleged debt.
 27. Defendant violated §1692e(5) of the FDCPA by threatening to file a lawsuit against Plaintiff even though Defendant does not intend to do so.
 28. Defendant violated §1692e(7) of the FDCPA by stating that the consumer committed any crime or other conduct in order to disgrace the consumer.
 29. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt by calling Plaintiff from a blocked or private number.

WHEREFORE, Plaintiff, STEVEN TUTOR requests that judgment be entered against defendant, CHECK RESOLUTION SERVICE, INC., for the following:

1 30. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection
2 Practices Act,

3 31. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C.
4 1692k,

5 32. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection
6 Practices Act, 15 U.S.C. 1692k

7 | 33. Any other relief that this Honorable Court deems appropriate.

COUNT II

**DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION
PRACTICES ACT (RFDCPA), Cal. Civ. Code § 1788 et seq.**

11 34. Plaintiff repeats, re-alleges and incorporates by reference all of the foregoing
12 paragraphs.

13 35. Defendant violated the RFDCPA based on the following:

- a. Defendant violated §1788.10(b) of the RFDCPA by the threatening that the failure to pay a consumer debt will result in an accusation that the debtor has committed a crime where such accusation, if made, would be false.
 - b. Defendant violated §1788.11(d) of the RFDCPA by placing collection calls to Plaintiff repeatedly and continuously so as to annoy Plaintiff.
 - c. Defendant violated §1788.11(e) of the RFDCPA by placing collection calls to Plaintiff with such frequency as to be unreasonable and to constitute a harassment to Plaintiff under the circumstances.
 - d. Defendant violated §1788.12(c) of the RFDCPA by communicating to any person any list of debtors which discloses the nature or existence of a consumer debt.
 - e. Defendant violated §1788.13(j) of the RFDCPA by the false representation to

1 Plaintiff that a legal proceeding has been, is about to be, or will be instituted
2 unless payment of a consumer debt is made.

3 f. Defendant violated the §1788.17 of the RFDCPA by continuously failing to
4 comply with the statutory regulations contained within the FDCPA, 15 U.S.C. §
5 1692 *et seq.*

6 36. Declaratory judgment that Defendant's conduct violated the Rosenthal Fair Debt
7 Collection Practices Act,

8 37. Statutory damages pursuant to the Rosenthal Fair Debt Collection Practices Act,
9 Cal. Civ. Code §1788.30(b),

10 38. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt
11 Collection Practices Act, Cal. Civ. Code §1788.30(c), and

12 39. Any other relief that this Honorable Court deems appropriate.

13
14 **DEMAND FOR JURY TRIAL**

15 PLEASE TAKE NOTICE that Plaintiff, STEVEN TUTOR, demands a jury trial in this
16 case.

17
18 Dated: June 4, 2010

19
20 RESPECTFULLY SUBMITTED,

21 By: _____
22 Ryan Lee, Esq.
23 KROHN & MOSS, LTD.
24 Attorneys for Plaintiff

1 **VERIFICATION OF COMPLAINT AND CERTIFICATION**

2 STATE OF CALIFORNIA

3 Plaintiff, STEVEN TUTOR, states as follows:

- 4 1. I am the Plaintiff in this civil proceeding.
5 2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe
6 that all of the facts contained in it are true, to the best of my knowledge, information
7 and belief formed after reasonable inquiry.
8 3. I believe that this civil Complaint is well grounded in fact and warranted by existing
9 law or by a good faith argument for the extension, modification or reversal of existing
10 law.
11 4. I believe that this civil Complaint is not interposed for any improper purpose, such as
12 to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a
13 needless increase in the cost of litigation to any Defendant(s), named in the
14 Complaint.
15 5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

16 Pursuant to 28 U.S.C. § 1746(2), I, STEVEN TUTOR, hereby declare (or certify,
17 verify or state) under penalty of perjury that the foregoing is true and correct.

18 DATE: 5 - 11 - 10

19 
20 STEVEN TUTOR

21

22

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NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) FOR, OR, PLAINTIFF
OR DEFENDANT IF PLAINTIFF OR DEFENDANT IS PRO PER

ATTORNEYS FOR:

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STEVEN TUTOR Plaintiff(s), V. CHECK RESOLUTION SERVICE, INC. Defendant(s)	CASE NUMBER CV10- 4240 RZ STATEMENT OF CONSENT TO PROCEED BEFORE A UNITED STASTES MAGISTRATE JUDGE (For use in Magistrate Judge Civil Consent Pilot Project Cases only)
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**THIS FORM SHALL BE USED ONLY FOR CASES IN WHICH A MAGISTRATE JUDGE IS
INITIALLY ASSIGNED PURSUANT TO LOCAL RULE 73-2**

All parties to the above-captioned civil matter are to check one of the two following options and file this document with the Clerk's Office:

- In accordance with the provisions of 28 U.S.C. § 636(C) and F.R.Civ.P.73(b), the party or parties listed below to the above-captioned civil matter hereby waive their right to proceed before a District Judge and Consent to have the assigned Magistrate Judge Ralph Zarefsky conduct all further proceedings in the case, including trial and entry of final judgment.

Any appeal from a judgment of the assigned Magistrate Judge shall be taken to the United States Court of Appeals in the same manner as an appeal from any other judgment of the District Court in accordance with 28 U.S.C. § 636(c)(3).

- The party or parties listed below to the above-captioned civil matter Do Not Consent to proceed before the assigned Magistrate Judge Ralph Zarefsky.

The party or parties listed below acknowledge that they are free to withhold consent without adverse substantive consequences.

Name of Counsel (OR Party if Pro Per)

Signature and date

Counsel for (Name Parties)

- Check this box if all parties have consented to proceed before the assigned Magistrate Judge.

NOTICE TO COUNSEL FROM CLERK

All parties having consented to proceed before the assigned magistrate judge, this case will remain assigned to United States Magistrate Judge Ralph Zarefsky for all further proceedings.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

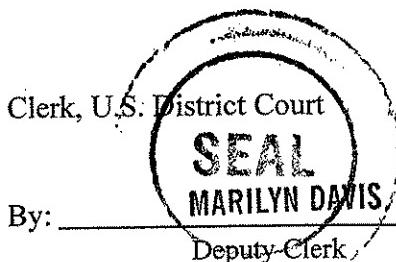
STEVEN TUTOR, v. CHECK RESOLUTION SERVICE, INC.	PLAINTIFF(S) DEFENDANT(S).	CASE NUMBER CV 10 4240 - RZ
		SUMMONS

TO: DEFENDANT(S): CHECK RESOLUTION SERVICE, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Ryan Lee, Esq., whose address is Krohn & Moss, Ltd.; 10474 Santa Monica Blvd., Suite 401; Los Angeles, CA 90025. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Dated: 7 JUN 2010



(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) STEVEN TUTOR,		DEFENDANTS CHECK RESOLUTION SERVICE, INC.,			
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Krohn & Moss, Ltd.; Ryan Lee, Esq. 10474 Santa Monica Blvd., Suite 401; Los Angeles, CA 90025 (323) 988-2400		Attorneys (If Known)			
II. BASIS OF JURISDICTION (Place an X in one box only.)		III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)			
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State	<input type="checkbox"/> PTF 1 <input type="checkbox"/> DEF 1 Incorporated or Principal Place of Business in this State <input type="checkbox"/> PTF 4 <input type="checkbox"/> DEF 4		
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5		
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6		
IV. ORIGIN (Place an X in one box only.)					
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge		
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		MONEY DEMANDED IN COMPLAINT: \$ _____			
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 15 USC 1692 et seq.; Unlawful and Abusive Debt Collection Practices					
VII. NATURE OF SUIT (Place an X in one box only.)					
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle Product Liability <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/ Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
					SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWV (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
					FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

CV10 4240

FOR OFFICE USE ONLY: Case Number: **UV 10**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- A. Arise from the same or closely related transactions, happenings, or events; or
 - B. Call for determination of the same or substantially related or similar questions of law and fact; or
 - C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 - D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District: Los Angeles (CA)	California County outside of this District; State, if other than California; or Foreign Country
--	---

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District: Kenmore, NY	California County outside of this District; State, if other than California; or Foreign Country
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- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District: Los Angeles (CA)	California County outside of this District; State, if other than California; or Foreign Country
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* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ Date June 4, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))